

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

UNITED STATES OF AMERICA,	}	
<i>Plaintiff-Respondent</i>	}	
	}	
v.	}	CRIMINAL ACTION NO. H-00-377
	}	CIVIL ACTION NO. H-03-2174
JIMMIE SMITH,	}	
<i>Defendant-Petitioner</i>	}	

**MEMORANDUM AND ORDER**

Presently before the Court are Petitioner Jimmie Smith's Motion to Vacate, Set Aside or Correct Sentence filed pursuant to 28 U.S.C. § 2255 (Doc. 165) and Memorandum in Support of § 2255 Motion (Doc. 167), the United States' Answer and Motion to Dismiss (Doc. 170), the United States' Supplemental Answer (Doc. 171), Movant's Traverse to the United States' Motion to Dismiss (Doc. 172), and the Magistrate Judge's Memorandum and Recommendation Granting Government's Motion for Summary Judgment and Denying Movant's § 2255 Motion to Vacate, Set Aside, or Correct Sentence. (Doc. 176). After carefully considering the record and the applicable law, the Court concludes that Petitioner's Motion to Vacate, Set Aside or Correct Sentence filed pursuant to 28 U.S.C. § 2255 (Doc. 165) should be **DENIED** and the United States' Motion to Dismiss (Doc. 170) should be **GRANTED**. Accordingly, this action is **DISMISSED WITH PREJUDICE**. The Court adopts the Magistrate Judge's Memorandum and Recommendation (Doc. 176) in full.

**SIGNED** at Houston, Texas, this 27th day of July, 2006.



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MELINDA HARMON  
UNITED STATES DISTRICT JUDGE